

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

EDWARD A. LONGTINE,

Plaintiff,

v.

Case No. 19-C-651

WAUTOMA SCHOOL DISTRICT,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE RECOMMENDATION
AND DISMISSING ACTION**

Plaintiff Edward A. Longtine filed this action against Defendant Wautoma School District on May 2, 2019. On December 4, 2019, Magistrate Judge Nancy Joseph filed a Report and Recommendation, in which she recommends that the case be dismissed, without prejudice, because Plaintiff has failed to pay the filing fee in this action. Magistrate Judge Joseph determined that Plaintiff was not indigent in part based upon her finding that he had \$1,500 in monthly income and reported only \$1,150 in monthly expenses. Plaintiff also had \$55,000 of equity in his \$107,000 home, \$500 in an account, two vehicles worth a total of \$14,500, and an acre of land with a house valued at \$14,000. Upon denying his motion to proceed without payment of the filing fee, Magistrate Judge Joseph directed Plaintiff to pay the filing fee by November 4, 2019, or face dismissal. Rather than pay the filing fee, Plaintiff filed a motion to withdraw his consent to magistrate judge jurisdiction and to reconsider the denial of his motion to proceed without prepayment of the filing fee. Magistrate Judge Joseph denied those motions and gave Plaintiff until December 2, 2019, to pay his filing fee. When he again failed to do so, Magistrate Judge Joseph recommended that the action be dismissed without prejudice. Plaintiff filed an objection

to the Report and Recommendation on December 16, 2019. He asserts that the court erred in finding that he is not indigent and requests that the court extend his time to pay so that he can use his tax returns to pay the filing fee.

Plaintiff's request for a further extension of time is denied. Plaintiff has offered no reason why after some seven months he has not used his existing assets or income to pay his filing fee. He was warned twice by Magistrate Judge Joseph that he must pay the filing fee or risk dismissal, but nevertheless insists he should be able to pay when convenient to him. Upon consideration of the record as a whole, I adopt the report and recommendation of Magistrate Judge Joseph and order the dismissal of this action without prejudice.

SO ORDERED at Green Bay, Wisconsin this 27th day of December 2019.

s/ William C. Griesbach

William C. Griesbach, District Judge
United States District Court